

27



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| 09/891,174      | 06/26/2001  | Tokuo Nakatani       | 2001_0914A          | 9273             |

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| ART UNIT | PAPER NUMBER |
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2616

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/891,174

Applicant(s)

NAKATANI ET AL.

Examiner

Mishawn N. Dunn

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) 9-13, 27-31, 33 and 35 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3, 7, 8, 14-21, 25, 26, 32 and 34 is/are rejected.  
7) ☒ Claim(s) 4-6 and 22-24 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

In the Response to Election of Species date January 11, 2006, the Applicants elected Species I, drawn to Figs. 6-9 for examination. The Applicants believe claims 1-8, 14-26, 32, and 34 are readable on the elected species. The Examiner agrees with this election.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 19, 32, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Suito et al. (US Pat. No. 6,937,658).
2. Consider claim 1. Suito et al. teaches a video data recording apparatus comprising: a detection unit operable to detect a change in an attribute of input video data (col. 8, lines 31-36); a recording unit operable to record the video data to a recording medium (col. 6, lines 36-39; fig. 1); a generating unit operable to generate playback control information which shows a position in the video data at which the change in the attribute was detected (col. 18, lines 16-23); and a control unit operable to control the recording unit so that the recording unit records the playback control information to the recording medium (col. 18, lines 8-15).

3. Consider claims 32 and 34. Suito et al. teaches a program recording medium having recorded thereon a program executable by a computer in a video data recording apparatus for recording video data to a video recording medium (col. 18, lines 30-35), and being readable by a video data recording apparatus which has a detection unit for detecting a change in an attribute of input video data (col. 8, lines 31-36), and a recording unit for recording video data to the video recording medium (col. 6, lines 36-39; fig. 1), the program including: a generating program segment for generating playback control information which shows a position in the video data at which the change in the attribute was detected (col. 18, lines 16-23); and a control program segment for controlling the recording unit so that the recording unit records the playback control information to the recording medium (col. 18, lines 8-15).
4. Method claim 19 is rejected for the same reason as discussed in the corresponding apparatus claim above.

5. Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Masanari et al. (JP 2000-069414).

6. Consider claim 1. Masanari et al. teaches a video data recording apparatus comprising: a detection unit operable to detect a change in an attribute of input video data (pg. 2, para. 0014); a recording unit operable to record the video data to a recording medium (pg. 3, para. 0019, 0022); a generating unit operable to generate playback control information which shows a position in the video data at which the change in the attribute was detected (pg. 5, para. 0039); and a control unit operable to

control the recording unit so that the recording unit records the playback control information to the recording medium (pg. 7, para. 0059; pg. 7, para. 0061).

7. Method claim 19 is rejected for the same reasons as discussed in the corresponding apparatus claim above.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 7, 14, 15, 20, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suito et al. (US Pat. No. 6,937,658) in view of Ryan (US Pat. No. 5,574,787).

10. Consider claim 2. Suito et al. teaches a detection unit that detects a change in the attribute of the input video data from a first attribute to a second attribute and from the second attribute to the first attribute (fig. 11); and the first attribute and the second attribute are defined as one of (a) the first attribute being one of (i) stereo, (ii) monaural, and (iii) multiplex audio data, and the second attribute being one of (i), (ii), and (iii) and being different to the first attribute (col. 9, line 66 - col. 10, line 6). Suito et al. does not disclose the first attribute permitting copying video data to which a copy protect signal is attached, and the second attribute prohibiting copying of video data to which a copy protect signal is attached.

However, Ryan teaches that the first attribute permitting copying video data to which a copy protect signal is attached, and the second attribute prohibiting copying of video data to which a copy protect signal is attached (col. 8., lines 28-34).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the information processing apparatus capable of accurately detecting commercials by audio data of Suito et al., a video recorder or playback device that permits or prohibits copying of video data, as taught by Ryan, in order to provide a video data recording apparatus which detects a change in an attribute of a signal input with video data.

11. Consider claims 3 and 7. Suito et al. teaches the playback control information indicates to a video data playback apparatus a playback start point and a playback end point of the video data; and the generating unit generates the playback control information so that the detection position of the change in the attribute from the first attribute to the second attribute is the playback end point (col. 18, lines 8-23).

12. Consider claims 14 and 15. Suito and Ryan disclose all of the claimed limitations as stated above in claim 2, except a recording medium for recording video data.

However, Suito et al. also teaches a recording medium that is a rewritable optical disc (col. 6, lines 36-39) for recording video data.

13. Method claims 20, 21, and 25 are rejected for the same reasons as discussed in the corresponding apparatus claims above.

14. Claims 8 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suito et al. (US Pat. No. 6,937,658) in view of Ryan (US Pat. No. 5,574,787) in further view of Iggulden et al. (US Pat. No. 5,692,093).

15. Consider claim 8. Suito et al. and Ryan disclose all of the claimed limitations as stated above, except that the second information further includes text data which shows that the change in the attribute at the detection positions shown in the second data is from the first attribute to the second attribute, or is from the second attribute to the first attribute.

However, Iggulden et al. teaches that the second information further includes text data which shows that the change in the attribute at the detection positions shown in the second data is from the first attribute to the second attribute, or is from the second attribute to the first attribute (col. 7, line 61 – col. 8, line 20).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the information processing apparatus capable of accurately detecting commercials by audio data of Suito et al. and Ryan, a time code to provide a position marker that can identify the beginning or ending of a recorded program segment, as taught by Iggulden et al., in order to provide a video data recording apparatus which detects a change in an attribute of a signal input with video data.

16. Method claim 26 is rejected for the same reason as discussed in the corresponding apparatus claim above.

17. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suito et al. (US Pat. No. 6,937,658) in view of Ryan (US Pat. No. 5,574,787) in further view of Masanari et al. (JP 2000-069414).

18. Consider claim 16. Ryan discloses all of the claimed limitations as stated in claim 15, except that the playback control information indicates to a video data playback apparatus a playback start point and a playback end point of the video data; and the playback start point shows one of (a) the head of the video data, and (b) a position in the video data at which the attribute changes from the second attribute to the first attribute, and the playback end point shows a position in the video data where the attribute changes from the first attribute to the second attribute.

However, Masanari et al. teaches that the playback control information indicates to a video data playback apparatus a playback start point and a playback end point of the video data (pg. 7, para. 0061); and the control unit controls the reading unit so that the reading unit reads from the playback start point to the playback end point of the video data (pg. 7, para. 0061). Masanari et al. also teaches that the playback start point shows one of (a) the head of the video data (pg. 7, para. 0061). Suito et al. teaches that the playback start point shows (b) a position in the video data at which the attribute changes from the second attribute to the first attribute, and the playback end point shows a position in the video data where the attribute changes from the first attribute to the second attribute (col. 9, line 66 – col. 10, line 6; fig. 11);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the information processing apparatus



capable of accurately detecting commercials by audio data of Suito et al. and Ryan, a commercial message detector, as taught by Masanari et al., in order to provide a video data recording apparatus which detects a change in an attribute of a signal input with video data.

19. Consider claim 17. Ryan discloses all of the claimed limitations as stated in claim 16, except that the playback control information includes first information indicating to the video data player the playback start point and the playback end point of the video data, and second information showing the position at which the change in the attribute occurs.

However, Suito et al. teaches that the playback control information includes first information indicating to the video data player the playback start point and the playback end point of the video data, and second information showing the position at which the change in attribute occurs; and the control unit controls the reading unit so that the reading unit reads the video data from the playback start point to the position at which the change in attribute occurs shown in the second information (col. 18, lines 8-23).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the information processing apparatus capable of accurately detecting commercials by audio data of Suito et al. and Ryan, a commercial message detector, as taught by Masanari et al., in order to provide a video data recording apparatus which detects a change in an attribute of a signal input with video data.

20. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suito et al. (US Pat. No. 6,937,658) in view of Ryan (US Pat. No. 5,574,787) in view of Masanari et al. (JP 2000-069414) in further view of Iggulden et al (US Pat. No. 5,692,093).

21. Consider claim 18. Suito et al., Ryan, and Masanari et al. disclose all of the claimed limitations as stated in claim 17, except that the second information further includes text data which shows that the change in the attribute at the detection positions shown in the second data is from the first attribute to the second attribute, or is from the second attribute to the first attribute.

However, Iggulden et al. teaches that the second information further includes text data which shows that the change in the attribute at the detection positions shown in the second data is from the first attribute to the second attribute, or is from the second attribute to the first attribute (col. 7, line 61 – col. 8, line 20).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the information processing apparatus capable of accurately detecting commercials by audio data of Suito et al., Ryan, and Masanari, a time code to provide a position marker that can identify the beginning or ending of a recorded program segment, as taught by Iggulden et al., in order to provide a video data recording apparatus which detects a change in an attribute of a signal input with video data.

***Allowable Subject Matter***

22. Claims 4-6 and 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. US Pat. No. 6,208,800

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mishawn Dunn  
January 19, 2006

  
ROBERT CHEVALIER  
PRIMARY EXAMINER